

Art Unit 2621
Serial No: 09/960,196

Reply to Office Action of: June 7, 2006
Attorney Docket No.: K35A0977

REMARKS

REJECTION UNDER 35 USC § 101

The examiner rejected claims 9-10 under 35 USC §101 for claiming non-statutory subject matter.

Claims 9-10 are in a format commonly referred to as a Beauregard claim (*In re Beauregard*, 53 F.3d 1583 (Fed. Cir. 1995)). Pursuant to *In re Beauregard*, the USPTO has published Examination Guidelines for Computer-Related Inventions, which on page 9 specifically state that "a claimed computer-readable medium encoded with a data structure defines structural and functional interrelationships between the data structure and the medium which permit the data structure's functionality to be realized, and is thus statutory." Accordingly, claims 9-10 claim statutory subject matter under 35 USC §101.

REJECTION UNDER 35 USC § 102

The examiner rejected claims 1-2, 4-6 and 8-10 under 35 U.S.C. § 102(e) as anticipated by U.S. patent application no. 2002/0170073 issued to Miller *et al.* The above claim amendments overcome this rejection by incorporating limitations of dependent claims previously deemed allowable.

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CONCLUSION

In view of the foregoing amendments and remarks, the applicant respectfully submits that the pending claims are now in condition for allowance and requests reconsideration of the rejections. If it is believed that a telephone conversation would expedite the prosecution of the present application, or clarify matters with regard to its allowance, the examiner is invited to contact the undersigned attorney at the number listed below.

The Commissioner is hereby authorized to charge payment of any required fees associated with this Communication or credit any overpayment to Deposit Account No. 23-1209.

Respectfully submitted,

Date: June 27, 2006

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